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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 April 2001, at 9 p.m.

Chairperson:	Mr. DESPOUY	(Argentina)
later:	Mr. MENDONÇA E MOURA (Vice-Chairperson)	(Portugal)

CONTENTS

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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CONTENTS (continued)

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

The meeting was called to order at 9.10 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (continued) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

1. Mr. LITTMAN (Association for World Education) said that he wished to raise once again the case of Dr. Malek, a Coptic doctor who had been sentenced to 25 years' imprisonment by a military court in Egypt. His organization's written statement (E/CN.4/2001/NGO/49) cited Opinion No. 10/1999 of the Working Group on Arbitrary Detention, which expressed the view that the doctor's deprivation of liberty was "arbitrary". He appealed for support for those thousands of people who would continue to petition the Egyptian President for the release of the condemned man in time for the Coptic Easter, and furthermore wished to remind the Commission of the constant discrimination in the Egyptian context against the Copts and their defenders. The Egyptian Government's reaction to a condemnation by the Cairo-based Centre for Development Studies of the brutal killing of 21 Copts at Al-Khosheh in January 2000 had been to close down the Centre and to arrest its director, who was in fact a Muslim, and 27 of his colleagues. They were currently being tried on trumped-up charges. There had been a similar case of intimidation against another Muslim Egyptian human rights defender, who had prepared a report on the torture in 1998 of over 1,000 innocent Copts from the same village.

2. Regarding the document entitled "The ancient Jewish community of Iran and the Shiraz 'show trial'", (E/CN.4/2001/NGO/50) his organization had appealed to the High Commissioner for Human Rights to inquire whether it was true that in the Shiraz trial any testimony from a Jew with regard to a Muslim was considered invalid by the court in accordance with traditional Islamic law. He had recently been informed by the High Commissioner that she had raised that question at the highest level but had received only an inadequate reply. He accordingly called on

the representative of the Islamic Republic of Iran to inform the Commission whether the testimony of a non-Muslim in regard to a Muslim had any validity during a trial in an Islamic court.

3. Mr. SAHRAOUI (Algeria), speaking on a point of order, said that he had timed the preceding statement as having lasted over nine minutes. The seven-minute rule should be respected.

4. Ms. IZE-CHARRIN (Secretary of the Commission) said it had been suggested that the principle of automatically granting seven minutes to speakers was not the best way of conducting the discussion and that an initial five minutes should be given, followed by two more minutes at the discretion of the Chairperson. She had decided to follow that suggestion. Without using a stopwatch, however, timing was not easy and it would clearly be unfair to cut a speaker off prematurely. It was her desire to satisfy all reasonable requests, and she would act in accordance with any decision taken by the Commission.

5. Mr. AL-HUSSAMI (Syrian Arab Republic) said that the problem was not so much how a speaker's time was to be calculated but rather that the present situation seemed to be one more example of the secretariat deciding in favour of a particular NGO. It was a fact that several NGOs were represented by a single person, namely Mr. Littman, who seemed to be constantly in conversation with members of the Commission secretariat. There should be a code of conduct for NGOs, particularly those represented by persons who made biased attacks on States and seemed incapable of seeing problems as a whole.

6. Mr. Mendonça e Moura (Portugal), Vice-Chairperson, took the Chair.

7. Mr. LITTMAN (World Union for Progressive Judaism) said that a recent book, The Forgotten Millions. The Modern Jewish Exodus from Arab Lands, edited by Malka Shulewitz, drew attention to the story of some millions of people for whom almost half the Jewish population of the State of Israel derived. In 1948, after the proclamation of the independence of Israel, there had been a massive expulsion of Jews - and of Christians - from Arab countries, whereby they had been forced to abandon their homes and possessions. Contrary to the case of the Arab refugees from Palestine, no international aid was received by the Jewish refugees. It had been pointed out that the statement in Security Council resolution 242 that a just and lasting solution of the Israeli-Arab conflict should include "a just settlement of the refugee problem" applied equally to the claims of Jews from Arab countries. The arbitrary carving-up of the territory east of the Jordan by the United Kingdom after the First World War had resulted in a confused situation. Deportations and expropriations of Jews and Christians had in fact been a recurrent phenomenon in the Islamic East, and it was a distortion of history to refer again and again to Palestinian Arab refugees but never to mention the Jewish refugees from the Arab world.

8. In conclusion, he wished to draw attention to an article relating to the infamous 1840 blood libel which had appeared in the Egyptian Government newspaper Al-Ahram on the eve of the Amman Arab summit. The article was in clear violation of Commission on Human Rights resolution 2000/84 on the defamation of religions, and called for a response by the Commission.

9. Ms. BAKHTIAR (Association of World Citizens) said that her organization's written statement (E/CN.4/2001/NGO/47) had called on the Chinese authorities to modify a number of legal and administrative practices in contradiction with internationally recognized human rights norms. The first case concerned the persistent use of administrative detention, which was a denial of the right to a fair trial, and the relegation of people to "re-education through labour camps" without stated reason, without any indication of the duration of detention and, in many cases, without family members being informed of the place of their detention. The second case related to the arrest of Falun Gong practitioners and their subjection to torture. Women practitioners were often subjected to violence, rape and degrading punishment, reflecting the widespread contempt for women in Chinese society. She could only hope that such legal practices in China would be reformed in a spirit of justice and compassion.

10. Mr. MONOD (War Resisters International) said that, further to the condemnation in its 1998 survey of the sufferings imposed on those refusing to participate in war, his organization, in line with the Commission's request to the High Commissioner for Human Rights to prepare a compilation and analysis of best practices in that field, wished to quote examples of such practices revealed by its survey. In a recommendation of 18 January 1994 the European Parliament had recognized the right to conscientious objection and made provision for the establishment of alternative civilian service. That recommendation had been largely followed by both member and non-member States, and by a number of States that had applied for accession to the European Union. In South America, Argentina made provision under its 1995 conscription law for such alternative service. In Paraguay, although provision had been made for recognizing the right to conscientious objection, there was still no implementing law. In Uzbekistan the civilian service provided for, was available only to members of religious groups, and included some military training. In Chad a 1989 governmental declaration stated that those opposed to the use of weapons might fulfil their obligations either in a non-combatant unit or in a civilian organization. In Moldova alternative service was provided for but, regrettably, for twice the length of time required for military service. Complete renunciation of army service had been decided on by Costa Rica in 1949, Panama in 1989 and Haiti in 1994 - a most welcome development. It was to be hoped that other countries maintaining professional armies would at least recognize the right of conscientious objection.

11. Mr. GORDON-LENEE (Reporters sans Frontières) said that there had been a notable decline in the repression of journalists throughout the world. The number of journalists imprisoned was the lowest for some years, and the number of countries with complete denial of press freedom had been steadily decreasing. In a score of countries, however, journalists continued to be imprisoned, tortured or even executed merely because their reports and inquiries were unwelcome to the authorities. In Burkina Faso the investigation into the death of journalist Norbert Zongo had made slow progress, and it had taken over two years for charges to be brought against Warrant Officer Marcel Kafando, a member of the Presidential Security Regiment, who was, in any case, unlikely to have acted without orders from above. Similarly, in Ukraine the inquiry into the murder of Georgiy Gongadze, the editor of a newspaper highly critical of the Government, had been seriously defective. Preservation of his body had been extremely negligent and the rights of his family to access to it had been flouted. The primary concern of the investigators seemed to be to protect the executive from serious accusations.

12. In spite of the improvements noted, no fewer than 26 journalists had been killed throughout the world during the year 2000; 329 had been illegally detained; and more than 510 reporters had been attacked and threatened. In Tunisia, for example, unknown persons had shot and seriously wounded the former editor of Le Monde Diplomatique following the publication of an article charging the head of State with involvement in the Taoufik Ben Brik affair. In Cuba there had been 70 cases of obstruction of freedom of information, including seizure of equipment, pressure upon families and the like. In the face of increasing Government repression, 18 independent journalists had been obliged to leave the island. Imprisonment had also been used in Burma and China as a means of repression against independent journalists, and similar measures had been taken against journalists in Ethiopia and in Iran, particularly in recent months.

13. Mr. FAYEK (Arab Organization for Human Rights) said that his organization welcomed the adhesion of an increasing number of Arab countries to human rights conventions and the Statute of the International Criminal Court. Important reforms had also been introduced in Bahrain, through the adoption of a national charter, and in Egypt, where provision had been made for judicial supervision of elections. The abrogation of the law on State security in Bahrain and the banning of flogging from Egyptian prisons were also positive developments, as were governmental efforts to promote the political participation of women.

14. On the negative side, the persistence of conflict posed a serious challenge to the realization of human rights, as exemplified by the cases of Somalia and southern Sudan. In Algeria, there had been a violent recrudescence of terrorism. The most serious violation of human rights in some Arab countries was the continued practice of torture, which was suspected to have led to the death of some detainees in Tunisia and Sudan. The banning of some political parties in Egypt and Mauritania and impediments to the registration of parties in Algeria persisted, as did restrictions upon the activities of human rights organizations in Tunisia.

15. The main concern of his organization, however, was the deterioration in the human rights situation of the Palestinian people and the continuing imposition of sanctions on Iraq after more than 10 years. The unilateral war conducted by the Israeli authorities with increasing violence aimed to discourage the Palestinian people from pursuing their rights and force upon them a system reminiscent of the "Bantustans" that had eventually been dismantled in South Africa by the international community. He called upon the Commission to ensure that steps were taken to halt all armed attacks on the Palestinian people and to lift the siege imposed on them, to provide international protection and to support legitimacy as a basis for a peaceful solution following United Nations resolutions. The continuing sanctions imposed on Iraq were having disastrous effects on its population, those most seriously affected being women, children and the elderly. It was highly regrettable that the United States not only disregarded the tragic consequences of its embargo but had bombarded civilian centres.

16. Mr. SÁNCHEZ (American Association of Jurists) said that the recent decision of the Mexican judge Luna Altamirano in favour of the extradition to Spain of an Argentinian citizen accused of human rights violations in his country of origin during the military dictatorship had set an important precedent in the field of universal jurisdiction. The ruling by the Inter-American Court of Human Rights of 14 March had established the important principle that the amnesty laws preventing relatives of victims of the 1991 Barrios Altos massacre, as well as

the surviving victims themselves, from obtaining a hearing before a judge were in violation of the right to judicial protection established by article 25 of the American Convention on Human Rights. The President of the Court had stated his personal view that the ruling would, by setting aside legislation favouring those responsible for serious human rights violations, be a blow struck against impunity.

17. The Association believed that the concepts of universal jurisdiction and the reduction of impunity should extend to all forms of human rights violations and be the inspiring principle of the work of the Commission, its rapporteurs and working groups. It had to be said that existing international tribunals did not always meet those criteria. The posturing before the media and dancing to the tune of the great Powers on the part of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia and her blatantly biased decision of June 2000 not to investigate NATO war crimes were, as argued in detail by the Association in document E/CN.4/Sub.2/2000/NGO/18, particularly deplorable. The Association also hoped that the Government of Brazil would recognize the distress caused to relatives by ignorance of the fate of disappeared persons and, in accordance with decision 1152 of the Inter-American Commission on Human Rights, provide information on the many persons who had disappeared in the 1970s.

18. The Association called for the Commission to take a firm stand on particularly serious human right violations such as those currently rife in Afghanistan, Colombia and the Islamic Republic of Iran, and on those now being perpetrated by the Israeli Government against the Palestinian people.

19. Ms. FEWZIA (International PEN) said that her organization particularly welcomed the report by the Special Rapporteur on the right to freedom of opinion and expression to the preceding session of the Commission, and shared his concern about the prosecution and imprisonment of writers and journalists. The use of criminal defamation laws to suppress legitimate comments and criticism of those in power gave cause for serious concern. While individuals should certainly be able to seek redress from the courts for harm suffered by false and malicious reports, civil, not criminal, legislation was the most appropriate means of addressing that issue. Her organization had noted a number of prosecutions under criminal defamation laws in 18 African, Asian, Latin American and European countries over the past year, including action taken against journalists for "defamation" of President Dos Santos of Angola, against Turkish writers and journalists for "insulting" the armed forces, and against a Sri Lankan journalist for corruption allegations associated with President Kamaratunga; and the detention of two journalists on charges of defaming government officials, including President Castro, in Cuba. There were many other countries where criminal defamation laws existed but had not led to detentions over the past years, and her organization appealed to Governments in all such countries to review their legislation and replace criminal by civil laws.

20. Ms. WESCHLER (Human Rights Watch) said that, in spite of strong condemnation of paramilitaries by President Pastrana and army leaders, paramilitaries, often tolerated or supported by the army, had been responsible for nearly 80 per cent of human rights violations in Colombia over the preceding year. Even when precise information about their activities, including the identity of a number of individuals, had been made available to the army, no action had been taken, and high-ranking officers credibly suspected of links with paramilitary groups had been promoted. In the first 17 days of 2001, the Government had recorded 23 massacres, the

worst being in Chengue, Sucre, where some 50 paramilitaries had dragged people from their homes and battered them to death. According to reliable accounts, the army had effectively sealed off the area during the killing. Guerrilla activity by the Revolutionary Armed Forces of Colombia and the Camilist Union-National Liberation Army had been responsible for serious human rights violations.

21. Her organization urged the Commission to take strong action on Indonesia, particularly with regard to the continuing military impunity. In spite of the important steps taken by the democratically elected Government, the courts were slow to act, and hardliners in the army and the Government continued to impede efforts to exact justice for past atrocities. In Aceh and Irian Jaya human rights defenders and political activists continued to come under attack, a recent example being the killing of three of them in South Aceh, and three aid workers providing care for torture victims had been shot in December 2000, the evidence pointing to military involvement. Thanks to the efforts of reformers, some new legislation, including provision for human rights courts, had, however, been enacted: investigation into a key case of torture and death in custody had been initiated; and ad hoc courts had been established to prosecute those responsible for human rights violations in East Timor in 1999 and Tanjung Priok in 1984.

22. Ms. MARSAC (Amnesty International) said that, notwithstanding the assurance of its commitment to protect human rights given to the Commission by Saudi Arabia, and the accession of that country to the Convention on the Elimination of All Forms of Discrimination against Women, and other positive measures taken, there had been no apparent impact on the prevalence of grave human rights violations, which continued to be ignored by the international community. The criminal justice system in Saudi Arabia denied defendants basic guarantees of a fair trial, relied heavily on confessions obtained under torture, and countenanced amputations and floggings as punishment. Her organization called on the Government of Saudi Arabia, which had now become a member of the Commission, to comply with its obligations under the Convention against Torture, abolish the punishments referred to and invite the Special Rapporteur on torture to visit the country. In Indonesia extrajudicial executions, "disappearances" and torture were regularly reported, especially in Aceh and Papua. Investigations into some human rights violations had been conducted, but prosecutions remained extremely rare. No one had been brought to justice for the crimes committed in East Timor in 1999. Legal reform had slowed down and safeguards were often ignored. The recommendations by the Working Group on Arbitrary Detention still awaited implementation, and the Commission should urge the Government to take action.

23. Her organization attached great importance to the addition of a strong protocol to the Convention against Torture, which should include making provision for an international committee of experts to visit places of detention. The Sub-Commission must have a standing invitation to visit the territory of any State party to the protocol, unlimited access to all places of detention and the right to interview detainees in private, the right to make a public statement in the case of refusal of cooperation, the exclusion of reservations, and prevention of the use of national legislation to restrict the Sub-Commission's work.

24. Mr. THOMPSON (Association for the Prevention of Torture) urged the Commission to renew the mandate of the Special Rapporteur on torture for a further three years without change because of its important function as an international preventive mechanism. His organization

welcomed the decision by a number of States to issue standing invitations to the Commission's thematic procedures, which included visits by the Special Rapporteur. The 1993 Vienna Declaration and Programme of Action had emphasized the primary importance of prevention and called for the early adoption of the draft optional protocol, which aimed at creating an international mechanism with the right to visit any place of detention. His Association had, since its establishment some 20 years previously, urged the constitution of such a body. The Chairperson of the Working Group should be mandated to conduct inter-sessional consultations with a view to arriving at a consolidated draft text for adoption by consensus at the following meeting of the Group.

25. Mr. SOTTAS (World Organization against Torture) said that the adoption of a protocol to the Convention against Torture was more necessary than ever because of the continuing widespread use of torture and cruel, inhuman or degrading punishment. The system proposed had proved its efficacy in Europe, where all the States parties to the European Convention for the Prevention of Torture were regularly visited by independent international experts, often resulting in the termination of inhuman practices. His organization together with associated NGOs urged the acceptance of such a mechanism as quickly as possible. He was, however, convinced that it would not achieve its objectives unless provision was made for unconditional access by independent external experts to all detention centres at any time.

26. His organization was gratified to note the measures taken in recent months to remedy the grave violations of human rights in Bahrain, to which it had drawn attention during previous sessions of the Commission. The return of numerous exiles was proof of the genuine changes that had taken place, and he urged the authorities to intensify their cooperation with international mechanisms, in particular the Working Group on Arbitrary Detention. The publicity given in other Arab countries to positive changes in Bahrain had made the human rights situation in some even more intolerable. He had already referred to the Algerian situation under agenda item 9, but the situation in Libya continued to cause grave concern. His organization wished to point out to certain western States, which believed that Libya was now a country to which asylum-seekers could be safely returned, that the guarantees offered by the Libyan authorities had proved false. With regard to Tunisia, both national and major international NGOs had emphasized that opposition to Islamic fundamentalism could not justify torture. In the absence of an international criminal court, his organization had been obliged to resort to the systems of universal jurisdiction provided for by the Convention against Torture, to which Tunisia was a party, in order to obtain justice on behalf of victims in exile.

27. Attempts to open a dialogue with the Chinese authorities had thus far proved relatively fruitless, and his organization continued to receive numerous allegations of torture used against members of trade unions not recognized by the authorities, against members of ethnic minorities, especially Tibetans, and against human rights activists and members of the Falun Gong movement. Furthermore, China had still not ratified the International Covenant on Civil and Political Rights, in spite of the numerous high-level seminars held in Beijing as well as in European capitals. Although the authorities had agreed to a long-awaited visit by the Special Rapporteur on the question of torture, they had insisted upon imposing their own conditions in place of the terms of reference defined by the international community. He hoped that, in future, any country agreeing to the visit of an international mechanism would unreservedly accept the internationally defined terms of reference.

28. Mr. SHERIF (World Islamic Call Society) said that there was no basis in the Koran, a liberal and tolerant sacred text, for the "Islamophobia" complained of by several speakers in the general discussion. If there were such a phobia, it would be the result of certain overzealous and misguided efforts of Islamic religious leaders and politicians, including opposition to the establishment in largely Muslim countries of places of worship for other religions, and the barbarous desecration of statues of the Buddha in Afghanistan.

29. His organization was disappointed with the persistent refusal of those drafting resolutions on religious intolerance to include a clause affirming the right of the child to education in the religion of his parents or legal guardians. Since all religions stressed the need for benevolence towards fellow beings, it followed that such education could promote understanding and respect in matters of religion and belief, provided that teachers of religion were properly motivated. The fear in some quarters that the inclusion of such a clause might be interpreted as requiring provision of religious education in public schools was totally unwarranted. The right to which he had referred was regrettably omitted from operative paragraph 4 of Commission resolution 2000/33, which also failed to draw attention to the right of religious communities to establish and maintain communication with individuals and communities in matters of religion and belief at the national and international levels, as mentioned in article 6 (i) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and more fully expressed in article 2.5 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which specifically referred to contacts across frontiers. It was a regrettable fact that some States denied that right to minorities and religious groups, thereby isolating them from the international organizational mainstream of their respective religions.

30. Having forthrightly condemned the desecration of Buddha images in Afghanistan, he wished also to express the hope that adequate international assistance would be extended to the more than 100,000 persons dying of cold and starvation in the Herat region of that country.

31. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that her organization regarded impunity as one of the major obstacles to the full protection of human rights. It was incompatible with the international obligations of States, a violation of the duty to provide guarantees, and particularly of the obligation to bring those responsible to justice and impose penalties proportionate to the gravity of the offences. Impunity also had social and political dimensions since it meant that one segment of society placed itself above the law. It undermined democracy and threatened those struggling for their rights against official repression.

32. One of the most frequent devices used by Governments to achieve impunity was the establishment of military courts to try members of the armed forces and the police responsible for human rights violations, a practice repeatedly condemned by the Human Rights Committee and a number of the commissions and special rapporteurs. Another device was the declaring of amnesties as the price for a return to "institutional normality" or to put an end to armed conflict. Such amnesties were incompatible with the International Covenant on Civil and Political Rights, as had been pointed out by the Human Rights Committee in its comments on article 7 of the Covenant and those addressed to Argentina, Chile, France, El Salvador, Haiti, Lebanon, Peru and Uruguay, which had declared such amnesties. The Vienna Conference had urged the abolition of

legislation of that kind, and her organization welcomed the important ruling by Judge Cavallo declaring Argentina's amnesty laws as unconstitutional. Impunity relating to economic, social and cultural rights was even more alarming.

33. Neo-liberalism, the impact of foreign debt and structural readjustment policies were a frequent source of violations of economic, social and cultural rights, often in the guise of "programmatic rights" or "progressive development". Her organization urged the Commission to pursue discussion of the draft set of principles for the protection and promotion of human rights by opposition to impunity prepared by the Sub-Commission on the Promotion and Protection of Human Rights and to grapple with the problem of impunity for violations of economic, social and cultural rights.

34. Mr. SIMÕES (International Federation of ACAT (Action by Christians for the Abolition of Torture)) said that, in spite of high-sounding statements on human rights by the Brazilian Government, its record was far from satisfactory, especially regarding the use of torture in the police and prisons systems. That was well illustrated by the situation in São Paulo, with its 37 million inhabitants, as revealed to the world by the Special Rapporteur on torture after his visit in August 2000. Between January 1996 and March 2001 the police ombudsman of São Paulo had received 873 denunciations of torture by civil or military police officers but only one case had been brought before the courts during that period. He also reported the use of torture to maintain discipline in youth centres, ironically called "foundations for the well-being of minors". The world-wide television coverage of prison riots in some 30 detention centres of São Paulo organized by criminal gangs had exposed the moral bankruptcy of the system, since the success of the gangs was due to the "protection" they offered detainees, totally deprived of legal assistance, health care and opportunities for work and education, which should have been guaranteed by the State as fundamental rights. He urged the Commission to make every effort to ensure that the Brazilian authorities took effective action against the practice of torture, and put an end to the impunity which encouraged its perpetuation.

35. Mr. MODVIG (International Rehabilitation Council for Torture Victims) said that health professionals supporting torture victims had continued to be exposed to harassment, and in some cases torture and execution, and his organization welcomed the appointment of the Special Representative of the Secretary-General on human rights defenders. Although States parties to the Convention against Torture recognized their obligation to prevent torture and to provide as full rehabilitation as possible for its victims, available funds continued to fall far short of existing needs. His organization, which in the past year had conducted urgent action missions in Sudan, Indonesia, Turkey and Zimbabwe, wished to encourage Governments to increase contributions to the United Nations Voluntary Fund, and welcomed the first contributions made by the Islamic Republic of Iran and Poland.

36. His organization was also becoming increasingly involved in the provision of technical assistance to Governments, and was currently discussing such projects with the Governments of Mexico and Chile. It agreed with the High Commissioner's view that accountability was crucial to prevention and recognized the central importance of the commitment of Governments to respond to allegations of human rights violations and to implement recommendations made by United Nations and other internally recognized bodies. He congratulated Member States on their endeavours to finalize the draft optional protocol, and supported the inclusion of both national

and international mechanisms provided that the mandate of the latter was maintained. His organization's experience in Kosovo and East Timor highlighted the need to establish a strong institutional framework to meet the social and psychological needs of affected populations in both conflict and post-conflict situations. NGOs would continue to play a crucial role in monitoring Governments' compliance with their international human rights obligations, and assisting them when they failed to comply.

37. In conclusion, he wished to state his organization's grave concern about attempts on the part of some Member States to weaken the mandate of the Special Rapporteur on torture. He urged the Commission to give firm support to the existing mandate, which was essential to effective operation of the monitoring and reporting process.

38. Ms. BAUER (Article 19 - Global Campaign for Free Expression), welcoming the report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2001/64), said that in many countries harsh defamation laws restricted the free flow of information and prevented criticism of public officials. The minimum standards with which civil defamation laws should comply included repeal of any provisions which prevented criticism of Government and public authorities, without protecting reputations; recognition of the importance of open debate and the principle that public figures were required to tolerate a higher degree of criticism than ordinary citizens; the burden of proving the falsity of statements relating to matters of public concern should be borne by the plaintiffs; it should be an admissible defence to show that the publication was reasonable in all circumstances, recognizing that journalists sometimes made mistakes under pressure of time; no one should be liable for the expression of an opinion; and sanctions should not be so heavy as to exert a chilling effect on freedom of expression.

39. In many countries publicly funded broadcasters were in effect Government mouthpieces, and it should be recognized that the prevalence of serious political interference in broadcasting hindered the free flow of information and undermined the public's right to know. The prohibition of private broadcasting in some countries was in clear breach of guarantees of freedom of expression, and in other countries the regulation of private broadcasting by Governments or by bodies under effective government control could lead to unfair licensing and regulation. Her organization called on the Special Rapporteur to look into the question of political interference with broadcasting.

40. Mr. LIYANAGE (Asian Legal Resource Centre) said that the 1994 Convention against Torture Act, which made torture a specific crime and a punishable offence in Sri Lanka, was rendered ineffective by the fact that the prosecutor, a member of the Attorney-General's department, would act only if criminal investigations were conducted by the police and a dossier was submitted to the department. In the case of offences, including torture, alleged to have been committed by law enforcement officers, there was rarely a criminal investigation. Reform of the prosecution system was therefore a precondition for finding an effective remedy, as required by article 2 of the International Covenant on Civil and Political Rights. In Nepal there was a similar failure to conduct independent inquiries into police brutality because of unwillingness on the part of the police to investigate and discipline fellow officers. In Thailand the heavy shackling of prisoners continued to be practised in violation of international standards. In India the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, provided for punishment of

those responsible for a number of degrading practices, but was hardly ever implemented. In the light of those situations, the Commission should investigate the investigations mechanism of prosecution systems in Asia.

41. As the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2000/64/Add.1) showed, Sri Lanka's record was among the most dismal. None of the recommendations made by the Working Group had in fact been implemented - a failure which pointed to the extreme weakness of Sri Lanka's justice system, and to the involvement of high office holders. The Commission should investigate the failure of the Sri Lankan Government to honour article 2 of the International Covenant on Civil and Political Rights and to implement the recommendations of the Working Group.

42. In Indonesia in 1965-1966 Soeharto and his allies had orchestrated the disappearance of over 1 million Indonesians in the name of "communist cleansing". Thirty-five years later there had still been no thorough inquiry into those crimes against humanity. The international community could no longer maintain silence and must actively support the establishment of an independent tribunal to investigate and prosecute the crimes in question.

43. Ms. KHIEWBORRIBOON (Asian Cultural Forum on Development) said that during the military suppression of the democratic uprising in Thailand in May 1992 her 19-year-old brother had been shot dead in a peaceful demonstration against the military-led Government. Dozens of other people had been killed, thousands injured and hundreds had disappeared, and, in spite of all attempts to seek justice over the past nine years, the Government had been reluctant to give information as to the whereabouts of the missing. The number of disappearances currently stood at 34, although it was believed that many more were missing. Her organization wished to thank the High Commissioner for Human Rights and the Working Group for accepting its submissions and expressing their concern, as stated in paragraphs 111-113 of document E/CN.4/2001/68.

44. Her organization called on the Thai Government to invite the Working Group on Enforced or Involuntary Disappearances to investigate the cases mentioned, and to pay just compensation to the families concerned. The reports on investigations commissioned by the governmental agencies should be disclosed in their totality. More generally, the Government of Thailand, which had become for the first time a member of the Commission, should comply with international humanitarian covenants and abrogate the pardon provision exonerating army personnel responsible for the May 1992 massacre. She urged Member States which had not yet ratified the International Covenant on Civil and Political Rights and its Optional Protocols to do so, and encouraged all Member States to promote the implementation of the Vienna Declaration and Plan of Action.

45. Ms. PARKER (International Educational Development), congratulating the Sub-Commission's Special Rapporteur on human rights and terrorism on her contribution to work on a complex a[illegible]ntroversial subject, said that two issues were particularly contentious: State terrorism, and [illegible]inction between armed conflict and terrorism. The High Commissioner had rightly set forth the principle, in paragraph 36 of her report (E/CN.4/2001/16), that States from which persecuted groups had fled as refugees remained responsible for violations of their human rights. State terrorist regimes included Indonesia,

Sri Lanka, Afghanistan, the Islamic Republic of Iran, Turkey (especially in regard to the Kurdish population), India (in relation to Jammu and Kashmir), Sudan and Burma, while Somalia could be more accurately described as a State of terrorists. Indonesian State terrorism was most evident in the attempt to crush Malaccan aspirations to independence.

46. Such regimes deliberately blurred the distinction between terrorism and armed conflict. Although the latter could be identified by clear criteria, the United States followed by the United Kingdom had unfortunately included in their terrorist lists combatant opposition forces in countries such as Palestine, Sri Lanka, Turkey, Kashmir and Iran, thus effectively denying the right to self-determination, criminalizing humanitarian aid to victims, and intimidating human rights groups.

47. Ms. RASATKINA (International League for Human Rights) said that gross violations of human rights, including unlawful detentions, abductions and disappearances, torture and summary executions, were being perpetrated in the Chechen Republic. In the majority of cases, when people were arrested it was only weeks or even months later that their relatives located them in an interrogation centre or at a police station. In many instances, detainees were never traced or were eventually identified on discovery of their dead bodies, often displaying signs of torture. Instances had occurred in the city of Urus-Martan, in Starye Atagi village, in the city of Argun, and in many other places. She herself had seen the dead bodies of victims in February 2001 in the vicinity of Khankala, the main Russian military base in Chechnya. Although, in the absence of a state of emergency, the military did not have the right to detain civilians, footage of detained civilians being brought to the Russian military base regularly appeared on Russian television. It was clear that such detentions were not isolated actions by some undisciplined military units, but were being carried out systematically. The public prosecutor's office had shown no willingness to investigate such crimes even when, as in many cases, the identity of the military and Interior Ministry personnel involved was known. Not a single case of disappearance had been investigated, no one had been prosecuted, and no one had been held responsible for the establishment of unlawful places of detention. Her organization called on the Commission to express its serious concern about gross human rights violations in the Chechen Republic, arrange for visits to Chechnya by the appropriate Special Rapporteur, and establish an international commission to monitor the crimes committed.

48. Mr. AHTEROM (Baha'i International Community) said that the situation of the Baha'is in Egypt had sharply deteriorated over the preceding 12 months. Seven had been arrested in the Sohag area in January and two more had been detained while visiting them, a tenth being detained later. The arrests had been followed by an extensive campaign of calumny against the Baha'i faith in the press, both inside and outside Egypt, reinforced by the publication of a fatwa accusing 16 members of the community of violating the fundamental laws of Islam. Organized persecution in Egypt had begun in 1960, when all Baha'i institutions had been dissolved by Presidential Decree No. 263, and had continued with the issue of a fatwa in May 1998 presenting a distorted view of the Baha'i faith. A challenge to the legality of the Presidential Decree had been rejected by the Supreme Court, whose Administrative Division had designated the faith as an unrecognized religion. He requested the Commission to urge the Egyptian Government to repeal the Presidential Decree, release the 10 persons detained in Sohag, and cease disseminating incorrect information designed to stir up hatred against the Baha'is.

49. Mr. SYED (European Union of Public Relations), commending the report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2001/64 and Add.1), said that those rights, which were essential elements of a healthy democracy, were being threatened in the Indian part of Kashmir. There, externally armed and indoctrinated militants, supported by mercenaries drawn from a number of foreign countries, were attempting to stifle the voice of Kashmiris who ventured to call into question the type of faith being imposed on the unsuspecting population, and were disrupting the long-established peaceful coexistence of people of different faiths. Inspired by political motives they operated through indoctrination of Kashmiri youth in the religious seminaries of a neighbouring country. The narrow interpretation of religion which the militants sought to inculcate had rightly been identified in the 1999 report of the United States Department of State as more potent than politics as the motivating force behind terrorist activity. The elected Government of the Indian State of Jammu and Kashmir provided every opportunity for legitimate dissent and opposition and had never attempted to deny freedom of expression or impose any curbs on the media, but the militant leadership refused to sit down at the negotiating table and discuss the issues. He called on them to give up the path of violence and join the democratic process. Only in that way could the shedding of innocent blood in Kashmir be halted.

50. Ms. BRETT (Friends World Committee for Consultation) said that, believing it to be wrong to kill or to train people to kill, Quakers claimed the right to conscientious objection to military service, not only for themselves but for all who shared their pacifist conviction. Her organization welcomed the adoption by the Commission of resolutions 1989/59 and 1998/77, the latter of which called on States to review their current laws and practices in relation to conscientious objection and requested the Office of the High Commissioner for Human Rights to prepare a compilation and analysis of best practices. That information would be a valuable tool to assist Governments in reviewing their current laws and practices.

51. Her organization also welcomed the recommendation by the Working Group on Arbitrary Detention that all States should adopt appropriate legislative or other measures to ensure that conscientious objector status was recognized and prevent the judicial system from being used to force conscientious objectors to change their convictions. The fact remained that many conscientious objectors continued to be subjected to harassment and ill-treatment, and her organization therefore called on all States to act on resolution 2000/34 and the Working Group's recommendation, and in particular: to provide for the right of conscientious objection to military service; to release all conscientious objectors from detention; to ensure that there was no discrimination in law or practice against them; to set a timetable for the review of their laws and practices; to declare an immediate moratorium on actions against those claiming the right of conscientious objection; and to provide asylum to conscientious objectors compelled to leave their country of origin.

52. Mr. JIMENEZ (Agir ensemble pour les droits de l'homme) said that the prison services in many countries were in a state of grave crisis: overcrowding, conditions incompatible with human dignity, torture and cruel and degrading treatment were being imposed on many thousands of persons. Even basic conditions, such as the provision of a cell, a bed and a food ration, often failed to be met, and the corruption of officials responsible for the internal regulation of prisons led to the proliferation of "mafiosi" who imposed their authority over collective life within prisons. Such inhuman conditions were also applied to political prisoners,

in breach of international standards of detention and of international humanitarian law. The situation of women, particularly those pregnant or breastfeeding their children, was often an insult to human dignity.

53. Another major problem was violence in prisons, which had become an increasingly common feature in recent years. States were failing to perform their duty of providing minimum standards of dignity and security, which in many cases would necessitate the building of new prisons. The situation in many Latin American countries was deplorable, especially in Colombia where over 50,000 men and women were being held in conditions of gross overcrowding, and where, in the preceding year, there had been 243 deaths and 462 cases of seriously injured people. In April 2000 persons imprisoned for paramilitarism in the model prison of Bogotá had massacred 25 people and seriously wounded 18, without any effective intervention by the custodial personnel. His organization called on the Commission to urge States to put an end to overcrowding, which was not only an offence to human dignity but a violation of human rights of prisoners; to protect prisoners, especially political prisoners, against attacks and cruel or degrading treatment; and to improve conditions for pregnant women and nursing mothers.

54. Mr. McNAUGHTON (International Human Rights Association of American Minorities) said that his organization was deeply disturbed by the recent custodial killing in Indian-occupied Kashmir of the District Baramulla Secretary of the Jammu and Kashmir Liberation Front, Mr. J.A. Shah. During peaceful demonstrations over that murder at Hygam, the Indian security forces, led by a Captain Tewari, had killed six innocent Kashmiris, and in Maisuma an Indian military officer had opened fire on the protestors, killing Mr. J.A. Nath and injuring many others.

55. He also wished to draw attention to the Turkish Government's plans to transfer political prisoners to isolation cells, which made them more vulnerable to torture and exposed them to inhuman psychological distress. In the preceding December the Government had launched a massive operation against the over 900 prisoners who had gone on hunger strike against transfers, resulting in the death of 28 prisoners and the force-feeding of others. He furthermore wished to draw attention to violations by both the Dublin administration and the occupying British Government of the human rights of individuals and groups who upheld Irish national sovereignty.

56. In June 2000 he had submitted to the Working Group on Arbitrary Detention a complaint regarding the illegal detention and brutal torture of four Mexican social activists by the Mexican security forces. In the absence of a response to a report on the matter transmitted to the Permanent Mission of Mexico in Geneva, the Working Group had forwarded its decision in favour of the allegations, as Opinion No. 37/2000 to the Permanent Mission. More than 12 weeks later no attempt had been made by the Mexican Government to remedy the situation. He therefore requested the Commission to call on the Mexican Government to release the four individuals concerned immediately and unconditionally.

57. Mr. DARATZIKIS (Observer for Greece), speaking in exercise of the right of reply, said that the representative of Albania's statement, with reference to the report by the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2001/64/Add.1), that there were 58,758 Albanian citizens of Greek origin was inaccurate. According to the official data of the Greek authorities the correct number was about 200,000.

58. Ms. PHOTHONG (Thailand), speaking in exercise of the right of reply, said that the allegation by the representative of the Asian Cultural Forum on Development that the Thai Government had been reluctant to give information about the consequences of the tragic events of May 1992 was not in accordance with the facts. Three reports on investigations into the incident had in fact been published in full, and the Information Act of 1997 guaranteed the right to obtain official information. The Thai Government was committed to upholding the principle of transparency and freedom of information. Further details about the actions undertaken by the Thai Government could be found in paragraphs 114 and 115 of document E/CN.4/2001/68.

59. Since the incident in question, the Thai Government had provided over 100 million baht as material support to the affected families. An amnesty decree, which applied to all concerned parties, both public and private, had been issued with a view to bringing about national reconciliation.

60. The use of shackles in Thai prisons, as referred to by the representative of the Asian Legal Resource Centre, occurred only in special cases, in particular when a prisoner attempted to escape, or to commit suicide, or was mentally unstable and violent and a danger to other prisoners.

The meeting rose at midnight